

PAULINA PIASECKI

313 E. 61st Street, #6A, New York, NY 10065 | (847) 687-6115 | pp652@law.georgetown.edu

EDUCATION

Georgetown University Law Center | Washington, D.C.

Juris Doctor

May 2021

GPA: 3.78/3.42

Honors: Dean's List (Fall 2020); Cогnetti Family Law Endowed Scholarship; Reynolds Scholar

Awards: *Best Advocate* – 2020 National Civil Trial Competition; *Regional Champion* – 2021 National Trial Competition; *National Semi-Finalist* – 2021 National Trial Competition; *Participant* – 2021 Top Gun

Journal: *Georgetown Journal on Poverty Law and Policy*

Publications: Paulina Piasecki, *The Legal Implications of COVID-19 on the Homeless*, GJPLP BLOG (Mar. 30, 2020), <https://www.law.georgetown.edu/poverty-journal/blog/the-legal-implications-of-covid-19-on-the-homeless/>.

Activities: Barristers' Council: Trial Advocacy Division – *Director*; Lawcapella – *President*; Women's Legal Alliance – *Mentor*; First Generation Student Union – *Member*

Benedictine University | Lisle, IL

Bachelor of Arts, *summa cum laude*, in Political Science and English Language and Literature

May 2018

GPA: 4.0

Honors: Procopian Award – *First in Class*; Political Science Student of the Year; 2015 & 2016 Intercollegiate Outstanding Attorney; Pi Sigma Alpha Political Science Honor Society; Sigma Tau Delta English Honor Society

Activities: Mock Trial – *Captain*; Moot Court – *Founder*; Pre-Law Society – *President*; Center for Civic Leadership

Thesis: Paulina Piasecki, *The New "Key to the City?" Examining Campaign Email Correspondence in the 2016 General Presidential Election* (Feb. 1, 2017) (unpublished B.A. thesis, Benedictine University).

EXPERIENCE

Schulte, Roth & Zabel, LLP | New York, NY

Associate

Oct. 2021 – Present

- Conduct legal research for matters in the Business Reorganization and Finance Groups; assist with trial preparation for ongoing bankruptcy matters and adversary proceedings; participate in bankruptcy litigation and deal strategy meetings; draft client alerts on latest bankruptcy opinions and trends.

Summer Associate

May 2020 – July 2020

- Observed hearings and client calls with Partners; conducted legal research and prepared memoranda on privilege, employment, and contracts issues; observed, drafted, and delivered closing argument for mock trial.

Domestic Violence Clinic | *Student Attorney* | Washington, DC

Jan. 2021 – May 2021

- Drafted petitions and affidavits to assist clients suffering from domestic violence in obtaining civil protection orders; interviewed and counseled clients, collected evidence, developed case theories, and drafted materials to prepare for trial; conducted direct examination at ex parte temporary protection order hearing.

U.S. Dept. of Justice: Criminal Division | *Public Integrity Section Law Clerk* | Washington, DC

Aug. 2020 – Dec. 2020

- Conducted advanced legal research and prepared memoranda on evidentiary and statutory issues for motions involving violations of RICO; conducted fact investigation to assist in filing indictment; developed comprehensive compilation of mail-in ballot election laws in anticipation of fraud in 2020 General Election.

Aequitas | *Law Clerk* | Washington, DC

Jan. 2020 – May 2020

- Developed comprehensive statutory compilations covering various defenses to sexual assault, including intoxication and using 404(b) other acts evidence against victims; examined the legality of service of process via email and social media in light of the COVID-19 pandemic.

Marzulla Law | *Law Clerk* | Washington, DC

Sept. 2019 – May 2020

- Prepared memoranda on contract and environmental law; assisted attorneys in preparing for depositions; conducted client interviews; reviewed and prepared trial materials to assist in ongoing litigation.

Cook County State's Attorney's Office | *Criminal Appeals Law Clerk* | Chicago, IL

May 2019 – Aug. 2019

- Compiled, reviewed, and judiciously presented substantial amounts of evidence to construct appellate briefs; analyzed constitutional issues and engaged in statutory interpretation to develop legally sound arguments and persuasive pleadings.

LANGUAGES & INTERESTS

Language: Polish (high proficiency in reading, writing, and speaking)

Interests: Polish-American Heritage, *Harry Potter*, Broadway, Traveling, Corny Historical Fiction, Weightlifting, Golf

This is not an official transcript. Courses which are in progress may also be included on this transcript.

Record of: Paulina Piasecki
GUID: 811947690

Course Level: Juris Doctor

Degrees Awarded:
Juris Doctor Jun 09, 2021
Georgetown University Law Center
Major: Law

Entering Program:
Georgetown University Law Center
Juris Doctor
Major: Law

Subj	Crs	Sec	Title	Crd	Grd	Pts	R
Fall 2018							
LAWJ	001	93	Legal Process and Society	2.50	IP	0.00	
			Lawrence Solum				
LAWJ	002	93	Bargain, Exchange & Liability	3.00	IP	0.00	
			David Super				
LAWJ	005	32	Legal Practice: Writing and Analysis	2.00	IP	0.00	
			Susan McMahon				
LAWJ	007	31	Property in Time	4.00	B	12.00	
			Daniel Ernst				
LAWJ	009	35	Legal Justice Seminar	3.00	B	9.00	
			David Luban				
			EHrs	QHrs	QPts	GPA	
Current			7.00	7.00	21.00	3.00	
Cumulative			7.00	7.00	21.00	3.00	
Subj	Crs	Sec	Title	Crd	Grd	Pts	R
Spring 2019							
LAWJ	001	93	Legal Process and Society	5.00	B+	16.65	
			Lawrence Solum				
LAWJ	002	93	Bargain, Exchange and Liability Part II: Risks and Wrongs	6.00	B	18.00	
			David Super				
LAWJ	003	93	Democracy and Coercion	4.00	B	12.00	
			Allegra McLeod				
LAWJ	005	32	Legal Practice: Writing and Analysis	4.00	B	12.00	
			Michael Cedrone				
LAWJ	008	93	Government Processes	4.00	B+	13.32	
			Jonathan Molot				
LAWJ	611	13	Questioning Witnesses In and Out of Court	1.00	P	0.00	
			Michael Williams				
			EHrs	QHrs	QPts	GPA	
Current			24.00	23.00	71.97	3.13	
Annual			31.00	30.00	92.97	3.10	
Cumulative			31.00	30.00	92.97	3.10	
Subj	Crs	Sec	Title	Crd	Grd	Pts	R
Fall 2019							
LAWJ	165	07	Evidence	4.00	B	12.00	
			Gerald Fisher				
LAWJ	215	09	Constitutional Law II: Individual Rights and Liberties	4.00	A-	14.68	
			Randy Barnett				
LAWJ	317	05	Negotiations Seminar	3.00	A-	11.01	
			Leah Kang				
LAWJ	418	05	Supreme Court Seminar	3.00	A	12.00	
			Susan Bloch				
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			EHrs	QHrs	QPts	GPA			
Current			14.00	14.00	49.69	3.55			
Cumulative			45.00	44.00	142.66	3.24			
Subj	Crs	Sec	Title			Crd	Grd	Pts	R
----- Spring 2020 -----									
LAWJ	121	09	Corporations			4.00	P	0.00	
			Donald Langevoort						
LAWJ	1244	05	Prosecuting Sexual Violence: Applying Research to Practice				NG		
			Jennifer Long						
LAWJ	1244	81	Prosec Sexual Viol~~Sem			2.00	P	0.00	
			Jennifer Long						
LAWJ	1244	82	Prosec Sexual Viol~~Field Work			2.00	P	0.00	
			Jennifer Long						
LAWJ	150	05	Employment Discrimination			3.00	P	0.00	
			Jamillah Williams						
LAWJ	361	07	Professional Responsibility			2.00	P	0.00	
			M. Jesse Carlson						
Mandatory P/F for Spring 2020 due to COVID19									
			EHrs	QHrs	QPts	GPA			
Current			13.00	0.00	0.00	0.00			
Annual			27.00	14.00	49.69	3.55			
Cumulative			58.00	44.00	142.66	3.24			
----- Fall 2020 -----									
LAWJ	1167	05	Anatomy of a Federal Criminal Trial: The Prosecution and Defense Perspective			2.00	A-	7.34	
			Jonathan Lopez						
LAWJ	1245	09	Trial Practice and Applied Evidence			3.00	A	12.00	
			Craig Iscoe						
LAWJ	1491	11	Externships I Seminar (J.D. Externship Program)				NG		
			Michael Monteleone						
LAWJ	1491	95	~Seminar			1.00	A	4.00	
			Michael Monteleone						
LAWJ	1491	97	~Fieldwork 3cr			3.00	P	0.00	
			Michael Monteleone						
LAWJ	355	05	Trial Practice Seminar: Working with Expert Witnesses			2.00	A	8.00	
			Joseph Petrosinelli						
LAWJ	396	05	Securities Regulation			3.00	A-	11.01	
			Russell Stevenson						
Dean's List Fall 2020									
			EHrs	QHrs	QPts	GPA			
Current			14.00	11.00	42.35	3.85			
Cumulative			72.00	55.00	185.01	3.36			
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Record of: Paulina Piasecki
GUID: 811947690

Subj	Crs	Sec	Title	Crd	Grd	Pts	R
----- Spring 2021 -----							
LAWJ	178	05	Federal Courts and the Federal System	3.00	P	0.00	
			David Vladeck				
LAWJ	518	06	Domestic Violence Clinic		NG		
			Deborah Epstein				
LAWJ	518	81	~Skills Development Rachel Camp	4.00	A	16.00	
LAWJ	518	82	~Educational Commitment Rachel Camp	3.00	B+	9.99	
LAWJ	518	83	Commitment to the Lawyering Role Rachel Camp	3.00	A-	11.01	
----- Transcript Totals -----							
			EHrs	QHrs	QPts	GPA	
Current			13.00	10.00	37.00	3.70	
Annual			27.00	21.00	79.35	3.78	
Cumulative			85.00	65.00	222.01	3.42	
----- End of Juris Doctor Record -----							

Georgetown Law
600 New Jersey Avenue, NW
Washington, DC 20001

March 21, 2022

The Honorable Timothy Kelly
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W.
Washington, DC 20001

Dear Judge Kelly:

I write in support of Paulina Piasecki's application for a clerkship position in your chambers. I became acquainted with Paulina when she was a student in my Constitutional Law II: Constitutional Rights course in the fall of 2019. This is a large class, so I do not get to know the students as well as I do in a seminar setting. But through her class participation, Paulina demonstrated an ability to distill material facts and the Court's reasoning in the cases I teach. In particular, during class discussion of *R.A.V. v. City of St. Paul*, 505 U.S. 377 (1992), she was able to cogently explain Justice Scalia's somewhat tricky use of the distinction between content-based and viewpoint-based restrictions of speech under the First Amendment to evaluate the hate speech ordinance in question.

In discussions with Paulina, she made clear her interest in becoming a prosecutor. Shortly after the course began, she sought me out to ask about my own experience as a criminal prosecutor in the Cook County State's Attorney's Office where she had just completed an internship. She shared with me her passion for trial lawyering, with which I could identify as I had the same passion when I was a law student. I later became aware that she has been remarkably successful in leading Georgetown Law's Trial Advocacy program, training new members, and being sent by the team to compete in the most prestigious, national trial advocacy tournaments. Paulina is a trial advocacy all-star here at Georgetown and I have no doubt Paulina is destined to be a first-rate trial attorney.

Paulina also has a passion for constitutional law. While taking my course, she was simultaneously writing her law journal note for Professor Bloch's Supreme Court Seminar. After completing my course, she sent me a copy of her note, *Returning Abortion to its Originalist Roots: The Ninth Amendment Protection of Every Woman's Right to an Abortion*, which she told me had been inspired by our class discussion of the 9th Amendment.

In her note, Paulina applied the Glucksberg "fundamental rights" analysis that I taught her in class to argue how an originalist Supreme Court might overturn *Roe v. Wade*. She then took her analysis one step further, arguing that the original meaning of the Ninth Amendment protects natural rights unenumerated in the Constitution, and these rights include a fundamental right of bodily autonomy. This, she concludes, could form an alternative constitutional basis for abortion rights. I think this note speaks well for the writing and analytic skills she will bring to a judicial clerkship.

From all my interactions with Paulina, I was able to tell that she is a sharp, rigorous, and devoted student who has a bright future ahead of her. I have no doubt that Paulina will become an exceptional litigator and would be an invaluable asset as a clerk in your chambers.

Sincerely,

Randy E. Barnett
Patrick Hotung Professor of Constitutional Law
Faculty Director, Georgetown Center for the Constitution

Randy Barnett - rb325@law.georgetown.edu - 202-662-9936

Georgetown Law
600 New Jersey Avenue, NW
Washington, DC 20001

March 21, 2022

The Honorable Timothy Kelly
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W.
Washington, DC 20001

Dear Judge Kelly:

I write to convey my extremely enthusiastic recommendation of Paulina Piasecki for a clerkship in your chambers. Paulina is whip-smart, deeply insightful, and goes above and beyond expectations on every assignment she receives. Together, her experience as a national mock trial champion, her time as an associate in a large law firm, and her immersive experience representing individual clients in a law school clinical program, have honed her research skills, her emotional intelligence, her standards of excellence and her deep understanding of the trial process. She will most certainly be an outstanding law clerk.

Paulina worked closely with me during the Spring 2021 semester, when she was a third-year law student enrolled in the Georgetown's Domestic Violence Clinic, which I direct. The Clinic is an intensive, 10-credit course, and Paulina represented several clients in civil protection order litigation, under my close supervision. For each of her clients, who were victims of domestic violence living in poverty in the District of Columbia, Paulina and her student co-counsel were responsible for every aspect of pretrial preparation, negotiation, and courtroom litigation. By enrolling in the Clinic, Paulina chose to stretch herself beyond the typically insular experience of most Georgetown law students; she immersed herself in the experiences and lives of clients whose circumstances were significantly different than her own.

Paulina worked hard to make powerful connections across those differences with each of her clinic clients. She shared her professional expertise in ways that enabled her clients to make the best-informed possible decisions about crucial aspects of their lives. She learned through hard-won experience how building trust through empathic listening can be an essential prerequisite for fact investigation, evidence collection, and ensuring that an initially-reluctant client is able to open up and trust the legal/judicial system. Paulina's well-developed sense of emotional intelligence, together with her consistent and rigorous planning for all eventualities, ensured that her clients were extraordinarily grateful—and fortunate—to have her as their counsel.

Paulina has a rare combination of (justified) confidence in her abilities and a non-defensive openness to constructive feedback. She came to the clinic after having achieved enviable success in several mock trial competitions; her clinic peers were uniformly intimidated by her prior expertise. But what is most effective in a mock jury trial is not necessarily what is most effective in a real-world judicial hearing; Paulina had to pivot. Her well-honed closing argument skills tended to focus on the dramatic presentation of facts; now, she needed to prioritize persuasion rooted in logic and the application of the law. Many of us find it challenging to shift from the role of recognized expert to that of beginner, but Paulina managed this transition with enormous grace and skill. Soon, she was incorporating lessons from both learning contexts, and she rapidly became as powerful a real-world litigator as she had been a mock trial advocate.

All aspects of Paulina's trial work were thorough, well-organized, strategically sophisticated, and persuasive. When she put witnesses on the stand, her intensive preparation paid off; she was free to focus intently on the witnesses' testimony and had the presence of mind and flexibility to follow up when she didn't elicit the answers she anticipated. In her first emergency hearing, she represented a client who had real difficulty articulating her story in a cohesive fashion; without a skilled lawyer, she would likely have been denied the temporary protection order she so desperately needed. Paulina had only a short window in which to prepare an efficient direct examination that would allow the judge an opportunity to follow events clearly and grasp the gravity of the situation. Paulina came through with flying colors and her efforts had a profound impact on her client's safety.

Paulina gives her absolute all in her professional life. She spent countless hours researching, drafting, and preparing oral testimony on her clients' behalf. And she is a generous colleague—she routinely attended other students' trial moots, providing insightful, useful feedback that improved the work of those around her. She was adored by her student colleagues, who gave her an award at the end of the semester. In their words: "Paulina is a skilled, eloquent, and captivating advocate, for whom the 'language of litigation' is already deeply ingrained. She speaks and holds herself with an enviable confidence that reinforces the clarity, organization, and effectiveness of her witness examinations and legal arguments. Paulina's fine-tuned trial skills reflect the fact that she does not simply consider what to say, but also how to say it; her choice of rhetoric is deliberate and powerful. Her clients will benefit from her intelligence, her warmth, and her sophisticated strategic insights."

Paulina is smart and sophisticated about the law and she is passionately committed to becoming the best professional she can be. Her intellect, well-developed research, writing, and oral advocacy skills, and enthusiastic collegiality will make her a significant asset to any judicial chambers fortunate enough to employ her.

If I can be of any further assistance, please do not hesitate to call.

Deborah Epstein - epstein@law.georgetown.edu - 2026629675

Sincerely,

Deborah Epstein
Co-Director
Georgetown University Law Center
Domestic Violence Clinic

Deborah Epstein - epstein@law.georgetown.edu - 2026629675

March 22, 2022

The Honorable Timothy Kelly
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W.
Washington, DC 20001

Dear Judge Kelly:

This letter is in strong and enthusiastic recommendation of Paulina Piasecki to serve as a judicial law clerk. Ms. Piasecki was a student in my course in Trial Practice and Applied Evidence at Georgetown University Law Center during the Fall semester of 2020. Ms. Piasecki's performance in the course was outstanding, and I awarded her the top grade in the class. Not only does Ms. Piasecki have extraordinary oral advocacy skills but, perhaps more important for a law clerk, she has an excellent understanding of the Federal Rules of Evidence. Her questions and comments during class demonstrate that she has sharp analytic skills and thinks carefully about legal issues. For my course, Ms. Piasecki's only written work was drafting short motions and oppositions but, from this limited perspective, she also excels at legal writing and research.

Ms. Piasecki also has strong interpersonal skills that will help make her an excellent law clerk. Despite her talents, Ms. Piasecki is not at all arrogant. She is a team player who works well with others and is receptive to criticism and suggestions. She appears to be an extraordinarily hard worker. Ms. Piasecki would be an asset to any judicial chambers.

Sincerely yours,

Chambers of
Craig Iscoe

(202) 879-7835

Craig Iscoe - Craig.Iscoe@dcsc.gov - (202) 879-7835

Georgetown Law
600 New Jersey Avenue, NW
Washington, DC 20001

April 27, 2022

The Honorable Timothy Kelly
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W.
Washington, DC 20001

Dear Judge Kelly:

I am writing to recommend Paulina Piasecki as an outstanding applicant for a judicial clerkship. Paulina is one of those welcome students who make teaching a wonderful and rewarding experience.

Paulina was in my Supreme Court Seminar in the Fall of 2019. She was always well prepared and eager to participate. In the seminar, the students are required to do a number of written projects, which I will now describe. Paulina did an outstanding job on all these projects.

First, each student is assigned a cert petition for a case pending in the Supreme Court at the time and is asked to write a cert memo as if he or she is a law clerk for a Supreme Court Justice. In the memo, the student must recommend the suggested disposition of the petition. The whole seminar then votes on whether to grant or to dismiss the petition. The case assigned to Paulina was called "Integrity Staffing Solutions, Inc. v. Jesse Busk," a Sixth Circuit case involving the interpretation of two federal statutes. Paulina wrote an excellent memo recommending that the Supreme Court grant cert and the seminar agreed. The Supreme Court denied cert, as it does with the majority of petitions it receives.

Second, I choose two cases that the Supreme Court is deciding on the merits during the Term of the Seminar. I ask the students to write bench memos for the cases and then the seminar meets and decides the cases as if they are Supreme Court Justices. The cases I chose for Paulina's class were:

(1) *Bostock v. Clayton County, Georgia* which involved the question of whether discrimination based on sexual orientation constitutes discrimination" on the basis of "sex."

(2) *Financial Oversight and Management Board for Puerto Rico v. Aurelius Investment, LLC*, which raised interesting constitutional questions about the applicability of the Appointments Clause to the Financial Oversight and Management Board for Puerto Rico.

Both Paulina's memos and her participation as a mock Supreme Court Justice were excellent.

Finally, students who take the seminar for three credits - as opposed to only two credits – are required to write a seminar paper on a topic of their choice. Paulina chose the three-credit option and wrote an excellent paper entitled "Returning Abortion to Its Original Roots: The Ninth Amendment Protection of Every Woman's Right to an Abortion." It was an original, passionate paper that easily earned her an "A" for the seminar.

Paulina is more than a great student. She is a passionate, confident young woman determined to use her legal skills to make the world better. She is a first-generation college graduate, first lawyer in her family, with a strong interest in history, politics, and public service. As a former law clerk myself, I am confident that Paulina will be an excellent clerk. She has the personality, ability, enthusiasm, energy and commitment to public service to be a valuable addition to any chamber. I strongly urge you to interview her. I am sure that you will be very impressed by her considerable ability, impressive enthusiasm, and warm personality.

If I can be of any further assistance, please contact me at my office (202) 662-9063, my cellphone (202) 669-5225, or my email Bloch@law.georgetown.edu.

Best Regards.

Susan Low Bloch

Susan Bloch - bloch@law.georgetown.edu

PAULINA PIASECKI

313 E. 61st Street, #6A New York, NY 10065 | (847) 687-6115 | pp652@law.georgetown.edu

The following is my final draft of a brief assigned to me by my supervisor for the Cook County State's Attorney's Office, Criminal Appeals Division. Since then, the draft has been edited stylistically. I have received permission from my supervisor at the Cook County State's Attorney's Office to use this final draft of my brief as a writing sample. Names and addresses of the parties involved have been redacted to maintain confidentiality. My supervisor ultimately edited portions of this final draft and filed it with the First District Appellate Court in Chicago, IL. For brevity I have only included a portion of the argument section of the brief.

For context, the Defendant was charged with one count of aggravated domestic battery, two counts of aggravated battery, one count of domestic battery and three counts of violation of an order of protection. At trial, the State proved Defendant entered his family's residence, in violation of a protection order, and stabbed his stepfather in the neck, back, and right arm with a shiny silver object while his stepfather was sleeping. The trial court found the State proved its case beyond a reasonable doubt with respect to aggravated battery (deadly weapon), domestic battery, in addition to all three counts related to the violation of the order of protection. Defendant filed an appeal arguing that his aggravated battery conviction must be reduced because the State failed to establish, beyond a reasonable doubt, the essential element of using "a deadly weapon" at the time of battery. Specifically, Defendant argued that the only evidence adduced to prove this element was his mother's testimony, and that such evidence was insufficient to prove that the battery was committed with a deadly weapon.

ARGUMENT

THE STATE PROVED DEFENDANT GUILTY BEYOND A REASONABLE DOUBT FOR AGGRAVATED BATTERY WITH A DEADLY WEAPON.

Defendant, [REDACTED], contends the evidence adduced at trial was insufficient to establish his guilt of aggravated battery with a deadly weapon, beyond a reasonable doubt. Defendant claims the evidence failed to prove “the essential element of ‘deadly weapon’ . . . because [the] article was described in the most ambiguous terms.” (D. Br. 2). Specifically, Defendant argues the evidence does not demonstrate the “sharp object” qualified as a deadly weapon in that it was used in a manner to produce death. (D. Br. 2). Defendant’s argument must fail however, because viewing the evidence in the light most favorable to the People, any rational fact finder would have found Defendant guilty beyond a reasonable doubt. Defendant’s argument is nothing more than an invitation for this Court to re-weigh the evidence, and as such, this Court should reject Defendant’s argument and instead affirm Defendant’s conviction for aggravated battery with a deadly weapon.

Defendant was charged by information with one count of aggravated domestic battery, one count of aggravated battery with a deadly weapon, one count of aggravated battery causing great bodily harm, one count of domestic battery, and three counts of violating an order of protection in stabbing his stepfather, Mr. [REDACTED]. (C. 17-26). Following a bench trial, Defendant was acquitted of counts I and III, and subsequently found guilty of Counts II and V. (S.R. 222-223). Defendant was subsequently sentenced to four years imprisonment in the Illinois Department of Corrections (Count II) to run concurrently with a three-year term of imprisonment (Count V). (S.R. 222-223). Defendant now appeals the aggravated battery count with a deadly weapon, which charged that Defendant became angry-

in committing a battery, other than by the discharge of a firearm, caused bodily harm to Mr. [REDACTED], to wit: stabbed Mr. [REDACTED] about the body with an object, and in committing the battery, [REDACTED] [REDACTED] used a deadly weapon, to wit; a sharp object. (C. 19).

Defendant bears a heavy burden with this challenge. Under long standing precedent, the relevant question for this Court is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *See Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *People v. Collins*, 214 Ill.2d 206, 217 (2005). Accordingly, because the standard of review does not allow a reviewing court to substitute its judgment for that of the fact finder (*People v. Sutherland*, 155 Ill.2d 1, 17 (1992)), the appellate court will not retry Defendant, and a conviction will not be reversed unless the evidence is so unreasonable, improbable or unsatisfactory that it raises a reasonable doubt of Defendant's guilt. *See People v. Evans*, 209 Ill.2d 194, 209 (2006); *People v. Hall*, 194 Ill.2d 305, 329-30 (2000). Determinations of witness credibility, the weight to be given testimony, and the reasonable inferences to be drawn from the evidence are responsibilities of the trier of fact, not the reviewing court. *See People v. Jimerson*, 127 Ill. 2d 12, 43 (1989).

It is presumed the trial court based its determination on proper legal reasoning and the court is presumed to have properly considered the evidence before it; it is Defendant's burden to affirmatively show the opposite. *See People v. Thompson*, 222 Ill.2d 1, 35 (2006); *People v. Brazziel*, 406 Ill. App. 3d 412, 434 (1st Dist. 2010). The controlling presumption is that the trial court properly considered all factors when coming to its sentencing determination. *See Brazziel*, 406 Ill. App. 3d at 434; *People v. Garcia*, 296 Ill. App. 3d 769, 781 (1st Dist. 1998). The trial court, having observed Defendant and the proceedings, has a far better opportunity to consider these factors than the reviewing court, which must rely on the "cold" record. *See People v. Alexander*, 239 Ill. 2d 205, 213 (2010), *citing People v. Fern*, 189 Ill. 2d 48, 53 (1999).

To convict Defendant of aggravated battery with a deadly weapon, the People must prove beyond a reasonable doubt that (1) in committing a battery Defendant used (2) a deadly weapon other than by discharge of a firearm. 720 ILCS 5/12-3.05(f)(1). In an aggravated battery case, the underlying offense that needs to be proved is battery, while the remaining elements serve to aggravate that battery. *See People v. Cherry*, 2016 IL 118728, ¶ 16. Here, Defendant argues the People did not meet the burden of proving that Defendant committed the battery, as no one could allegedly identify the assailant and the People allegedly could not demonstrate that that sharp object was used in a manner that could produce death. (D. Br. 8). Thus, the only question for this Court to consider is whether Defendant knowingly committed battery with a deadly weapon. Defendant did commit battery when he knowingly violated his order of protection and stabbed Mr. [REDACTED] five times. The sharp object Defendant used was a deadly weapon as it was used in a manner that could produce death.

A. Defendant committed a battery resulting in bodily harm to Mr. [REDACTED].

In this case, there is no dispute that the evidence adduced at trial was sufficient to prove Defendant's conduct resulted in a battery. And, in viewing the evidence in the light most favorable to the People, a rational trier of fact could find, beyond a reasonable doubt, that Defendant knowingly intended to inflict bodily harm to Mr. [REDACTED]. To prove battery beyond a reasonable doubt, the People must show Defendant (a) knowingly, (b) without legal justification by any means (c) caused bodily harm to an individual or (c) makes physical contact of an insulting or provoking nature. 720 ILCS 5/12-3.0.

The State can prove battery in two ways: first by showing that Defendant knowingly, without legal justification, caused bodily harm to an individual, and second, under the same circumstances, by making physical contact of an insulting provoking nature. *See People v. Mays*,

91 Ill.2d 251, 256 (1982). Because the charging instrument only referenced bodily harm, not physical contact of a provoking nature, the State only had to prove battery via element (c). 720 ILCS 5/12-3.0. It is the People's duty to prove the essential elements of a charged crime and these elements must be made known to the trier of fact. *See People v. Hussy*, 3 Ill.App.3d 955, 956-957 (1972) (finding the element of “without legal justification” is not an essential element of the charge of a battery). In the instant case, the essential elements the People had to prove were (a) and (c).

i. Defendant acted “knowingly, without legal justification” when he entered the [REDACTED] residence on March 12, 2015.

There was ample circumstantial evidence introduced in trial to establish beyond a reasonable doubt Defendant acted knowingly when he entered the residence in direct violation of his order of protection to seek out Mr. [REDACTED]. A person “acts knowingly” if “he is consciously aware that his conduct is of such nature” that it is “practically certain” to cause the result proscribed by the offense. *People v. Moore*, 358 Ill. App. 3d 683, 688 (1st Dist. 2005); *People v. Farrokhi*, 91 Ill.App.3d 421, 427 (1980); *see People v. Jasoni*, 2012 IL App (2d) 110217, ¶ 20. Whether a person acted knowingly with respect to bodily harm resulting from one’s actions is often proved by circumstantial evidence, rather than by direct proof. *See People v. Lattimore*, 2011 IL App (1st) 093238, ¶ 44.

In *Lattimore*, the defendant was convicted of aggravated battery and retail theft and sentenced to two years of mental health probation. *Id.* at ¶ 1. On appeal, the defendant argued that the trial court, that the State failed to prove beyond a reasonable doubt that defendant “knowingly” caused bodily harm to a security guard. *Id.* The appellate court disagreed with defendant and held that evidence adduced at trial showed defendant acted knowingly when he repeatedly tried to leave a store with merchandise he had not paid for, after each attempt led to a physical struggle with store personnel. *Id.* at ¶ 45. The court ruled that because the defendant was aware his conduct

increased the likelihood of store personnel getting injured, a rational trier of fact would have found that after engaging in repeated struggles, store personnel could be injured. *Id.*

Here, like in *Latimore*, Defendant exhibits the same knowing behavior because Defendant has previously engaged in conduct that would have caused Mr. [REDACTED] harm. The order of protection was issued to prevent Defendant from entering the residence, since Defendant was more likely to cause Mr. [REDACTED] harm if Defendant remained at [REDACTED]. (S.R. 100). The People introduced evidence showing Defendant was served with an order of protection in open court.¹ Further, Mrs. [REDACTED] testified that on March 12, at around 6:00 a.m., Defendant violated the order of protection by going up to the second level of the residence where he knew Mr. [REDACTED] would be sleeping. (S.R. 165). After viewing the evidence in the light most favorable to the State, the trial court correctly determined Defendant acted knowingly in the act of aggravated battery.

ii. Defendant, in stabbing Mr. [REDACTED] about the body five times, “cause[d] bodily harm.”

Defendant inflicted bodily harm when he stabbed Mr. [REDACTED] five times in the back with a sharp object. Infliction of bodily harm is an essential element of battery. 720 ILCS 5/12-3.0. Bodily harm is defined as “some sort of physical pain or damage to the body, like lacerations, bruises or abrasions, whether temporary or permanent.” *People v. Mays*, 91 Ill.2d 251, 256 (1982). Conduct of this nature does not have to rise to the same level as “great bodily harm,” which requires injury of a more “grave and serious character than an ordinary battery.” *People v. Figures*, 216 Ill.App.3d 398, 401 (1991).

In *Figures*, the defendant was convicted of aggravated battery, armed violence, and

¹ Even though the People did not need to prove defendant’s behavior happened without legal justification, defendant violated his order of protection when he entered the residence on March 12, 2015.

attempted murder. *People v. Figures*, 216 Ill.App.3d 398, 399 (1991). On appeal, the defendant argued that the State did not prove the aggravated battery charge because the State failed to show the defendant caused great bodily harm. *Id.* The appellate court held the damage to the victim clearly rose to the level of bodily harm because evidence adduced at trial showed the victim was shot in the foot. *Id.* at 402. The court noted that even when the bullet only pierced the victim's shoe and did not penetrate skin, because the injury received medical attention and there was damage to the body, the level of harm was enough to satisfy a simple battery requirement. *Id.*

Similarly, in the case at bar, the trial court correctly returned a finding indicative of bodily harm for Count II. The evidence, consisting of the five lacerations, blood, and medical treatment, all unmistakably show bodily harm, considering there was damage to Mr. ██████'s body and Mr. ██████ received medical treatment. (S.E. 232-237). Further, in this case, the injuries surpass the severity of those sustained by the victim in *Figures*, as Mr. ██████ received more injuries, there was blood present, and medical attention was required. (S.R. 143). Mr. ██████ lost large quantities of blood, was transported to the hospital by ambulance, and not allowed to leave until later in the afternoon. (S.R. 143).

The People find *Parks* also instructive. In *Parks*, the defendant was found guilty of aggravated battery. *People v. Parks*, 50 Ill.App.3d 929, 930 (1977). The defendant appealed, arguing that the State failed to prove him guilty beyond a reasonable doubt. *Id.* at 933. Specifically, defendant believed that the lack of blood on the victim's glove and the victim's testimony that she was bleeding on her hand was not enough to prove bodily harm. *Id.* The court held that the defendant's claim lacked merit because testimonial evidence of the blood and attack was enough to show bodily harm. *Id.*

Like in *Parks*, the State introduced testimonial and photographic evidence of bodily harm.

At trial Mr. [REDACTED], Mrs. [REDACTED], and [REDACTED] all testified to the bleeding they saw on Mr. [REDACTED] after Defendant had left the residence. (S.R. 145, 158-159, 170). The People introduced photos of the blood that stained the sheets of Mr. [REDACTED]'s bed and [REDACTED] testified he could see the blood from the doorway of Mr. [REDACTED]'s bedroom. (S.E. 232; S.R. 158-159). Like the court found in *Parks*, the testimonial and photographic evidence of the blood from Mr. [REDACTED]'s stabbing presented at trial was enough to satisfy proving the essential element of bodily harm.

Defendant argues otherwise, but unconvincingly. Defendant initially contends that the Mrs. [REDACTED]'s testimony is not sufficient to support an aggravated battery conviction, because the recognition of the assailant comes from her, and not the victim, Mr. [REDACTED]. (D. Br. 9). Defendant points to no case law requiring the People to prove a victim must identify their assailant to prove up an aggravated battery conviction. Aggravated battery can be established by circumstantial evidence, if the manner of the injury and means by which is it inflicted may be inferred from the evidence produced. *See People v. Goodwin*, 24 Ill.App.3d 1090, 1094. Without reverting to *res ipsa loquitor*, People presented the following circumstantial evidence.

First, that Mrs. [REDACTED], [REDACTED], and Mr. [REDACTED] did not commit the battery. Mrs. [REDACTED] was getting ready for work, while [REDACTED] and Mr. [REDACTED] were asleep in their bedrooms' during the time of the attack. (S.R. 165, 170-171). Second, evidence showed that the wounds were on Mr. [REDACTED]'s back, making it difficult to conclude Mr. [REDACTED] stabbed himself. (S.R. 145-146; S.E. 234). Further, Mrs. [REDACTED]'s testimony placed Defendant upstairs, at the time of the incident. (S.R. 166). Five to ten minutes after defendant went upstairs, Mrs. [REDACTED] heard screams coming from Mr. [REDACTED]. (S.R. 167). After Mrs. [REDACTED] heard screams, she saw Defendant with a "real shiny object" that was "glaring" in Defendant's hand. (S.R. 168). Further, [REDACTED] testified that he did not have a weapon on March 12, 2015. (S.R. 158). Mr. [REDACTED]

also testified that he did not have the stab wounds on his back the night before. (S.R. 148). The People further presented photographic evidence of the blood and lacerations that Mr. [REDACTED] received to support the aforementioned testimonial evidence. (S.E. 232-237). Collectively, the photographic evidence produced at trial proved that Mr. [REDACTED] was stabbed with a sharp object, likely the “real shiny” object Defendant was holding as Defendant ran down the stairs, successfully proving bodily harm. (S.R. 167).

Defendant’s argument erroneously requests this Court to find that, as a matter of law, when a defendant is acquitted of great bodily harm, it should follow that defendant is also acquitted of bodily harm. (D. Br. 14). The People are only required to prove up the essential elements of the charging instrument. *See People v Rothermel*, 88 Ill.2d 541, 544. Here, section 3.05 of the Criminal Code of 2012 instructs that to prove aggravated battery under (f)(1), the People only need to prove bodily harm, not great bodily harm. 720 ILCS 5/12-3.05(f)(1). This does not “bolster” Defendant’s conclusion (D. Br. 14), as the People have introduced enough evidence to show Mr. [REDACTED] sustained bodily harm. As mentioned above, Mr. [REDACTED] testified to physical pain when he woke up after feeling something “hit him” on the back. (S.R. 141). Further, Mr. [REDACTED], Mrs. [REDACTED] and [REDACTED] testified to lacerations and blood from the lacerations that were on Mr. [REDACTED] and covered the bedding. (S.R. 145, 158-159, 170). After looking at the evidence, in the light most favorable to the People, the People met their burden of proving the essential element of bodily harm.

B. The “sharp object” defendant used to stab Mr. Calhoun became a deadly weapon when it was used in a manner capable of producing death.

On March 12, 2015, Defendant used a “real shiny” sharp object in a manner to produce death when he entered the [REDACTED] residence and stabbed Mr. [REDACTED] five times in the back while Mr. [REDACTED] was sleeping. The final essential element the People must prove is that Defendant

used a deadly weapon. Defendant argues *Carter* is instructive. In *Carter*, the court defined a deadly weapon as

an instrument that is used or may be used for the purpose of an offense or defense and capable of producing death. Some weapons are deadly per se; others, owing to the manner in which they are used, become deadly. A gun, pistol, or dirkknife is itself deadly, while a small pocket knife, (emphasis supplied) a cane, a riding whip, a club or baseball bat may be so used as to be a deadly weapon. [citation omitted]. Those instrumentalities not considered deadly per se may thus clearly become such by the manner in which they are used.

People v. Carter, 410 Ill. 462, 465 (1951) (quoting *People v. Dwyer*, 324 Ill. 363, 364 (1927)).

The *Carter* court created two categories of deadly weapons: those that are *per se* deadly, and those that become deadly if used in a manner capable of producing death. *Id.* at 465.

Assuming, *arguendo* that the weapon at issue was not a *per se* deadly, if the character of the weapon is doubtful, or hinges on a question of the manner of its use, the issue is left to the trier of fact to decide from the description of the weapon, manner it was used, and the circumstances of the case. *People v. Olsen*, 161 Ill. App.3d 945, 949 (1987) (citing *People v. Dwyer*, 324 Ill. 363, 365 (1927)). Therefore, to determine if a deadly weapon is present in the instant case, the Court must look not at the damage the weapon caused, but to the manner in which the defendant used the weapon. A weapon is used in a manner capable of producing death when an assailant targets a vital part of the victim's body with a weapon that is not *per se* deadly. *People v. Carter*, 410 Ill. 462, 466; *see also People v Stanley*, 369 Ill.App.3d 441, 446 (2006).

In *Carter*, the defendant sustained a conviction of assault with intent to murder. *People v. Carter*, 410 Ill. 462, 463 (1951). On appeal, the defendant argued that the evidence the State introduced failed to prove beyond a reasonable doubt the elements necessary to sustain a conviction of assault with a deadly weapon with intent to commit murder. *Id.* at 463-64. Specifically, that the State failed to prove the use of a deadly or dangerous weapon. *Id.* The

supreme court held that when the defendant used a small pocketknife with a 2-inch blade, while not *per se* deadly, it was capable of producing death. *Id.* at 466. The court noted that because the defendant wielded the pocketknife while delivering a blow to the victim's head, a vital part of the victim's body, this was enough to show the defendant used the pocketknife in a manner capable of producing death. *Id.*

Similarly to *Carter*, in the case at bar, Mr. [REDACTED] received a stab wound in the neck, a vital part of the body. (S.R. 146; S.E. 235). Had the stabbing performed by the Defendant hit a major artery, combined with the motive introduced by the State in the evidence of other crimes, Defendant could have been charged with murder. Evidence introduced at trial showed that Mr. [REDACTED] received multiple stab wounds on the back, under the arm and on the neck, further indicating Defendant did not stop after one attempt to harm Mr. [REDACTED]. (S.E. 234-237). The way Defendant wielded the sharp object proves Defendant used the "sharp object" in manner capable of producing death when stabbing Mr. [REDACTED].

Defendant finds *Stanley* and *Blanks* as instructive, mistakenly arguing these cases prove the "real shiny silver object" in the case at bar does not rise to the classification of a deadly weapon. (D. Br. 13). While Defendant correctly uses *Carter* to establish there are two categories of deadly weapons, Defendant incorrectly distinguishes both *Stanley* and *Banks*, as they show support for the facts presented by People, not the Defendant.

END OF EXERPT

Applicant Details

First Name	Sahar											
Last Name	Segal											
Citizenship Status	U. S. Citizen											
Email Address	saharsegal@uchicago.edu											
Address	<table><tr><th>Address</th></tr><tr><td>Street</td></tr><tr><td>702 W. Gordon Ter., Apt 3A</td></tr><tr><td>City</td></tr><tr><td>Chicago</td></tr><tr><td>State/Territory</td></tr><tr><td>Illinois</td></tr><tr><td>Zip</td></tr><tr><td>60613</td></tr><tr><td>Country</td></tr><tr><td>United States</td></tr></table>	Address	Street	702 W. Gordon Ter., Apt 3A	City	Chicago	State/Territory	Illinois	Zip	60613	Country	United States
Address												
Street												
702 W. Gordon Ter., Apt 3A												
City												
Chicago												
State/Territory												
Illinois												
Zip												
60613												
Country												
United States												
Contact Phone Number	8477570762											

Applicant Education

BA/BS From	Yale University
Date of BA/BS	June 2013
JD/LLB From	The University of Chicago Law School
	https://www.law.uchicago.edu/
Date of JD/LLB	June 13, 2020
Class Rank	School does not rank
Law Review/Journal	Yes
Journal(s)	Chicago Journal of International Law
Moot Court Experience	No

Bar Admission

Admission(s)	Illinois
--------------	----------

Prior Judicial Experience

Judicial Internships/ Externships	No
Post-graduate Judicial Law Clerk	No

Specialized Work Experience

Recommenders

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This applicant has certified that all data entered in this profile and any application documents are true and correct.

SAHAR SEGAL

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April 9, 2022

The Honorable Timothy J. Kelly
U.S. District Court for the District of Columbia
E. Barrett Prettyman U.S. Courthouse
333 Constitution Ave., N.W.
Washington, DC 20001

Dear Judge Kelly:

I am a second-year litigation associate at Skadden, Arps, Slate, Meagher & Flom LLP and 2020 graduate of the University of Chicago Law School writing to apply for a clerkship in your chambers for the 2024-2025 term.


A resume, writing sample, and transcripts are enclosed. Letters of recommendation will arrive under separate cover from Omri Ben-Shahar, Jessie Liu, and Lior Strahilevitz. In addition, you may contact the following professional references:

Charles Smith
Partner, Litigation
Skadden, Arps, Slate, Meagher
& Flom LLP and Affiliates
charles.smith@skadden.com
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Daniel Scime
Associate, Litigation
Skadden, Arps, Slate, Meagher
& Flom LLP and Affiliates
djscime@gmail.com
(716) 310-7089

Thank you for your time and consideration. Please let me know if you require additional information.

Sincerely,



Sahar Segal

SAHAR SEGAL

702 W. Gordon Terrace #3A ♦ Chicago, IL 60613 ♦ (847) 757-0762 ♦ sahar.s.segal@gmail.com

EDUCATION

The University of Chicago Law School, Chicago, IL

J.D., with Honors, June 2020

JOURNAL: Staffer, *The Chicago Journal of International Law*

ACTIVITIES: Treasurer, American Constitution Society; President, Jewish Law Students Association

The Hebrew University of Jerusalem, Jerusalem, Israel

M.A. with Thesis in Talmud and Jewish Law, December 2017

HONORS: Kaete Klausner Fellowship; Minchen Scholarship; Orenstein Scholarship; Polonski Award

Yale University, New Haven, CT

B.A. with Theses in Political Science and Religious Studies, May 2013

HONORS: Distinction in Political Science (Intensive); Distinction in Religious Studies; Thomas Barry Fellowship

PUBLICATIONS

Inside the Courts – An Update from Skadden Securities Litigators (Feb. 2022, Oct. 2021, June 2021, Mar. 2021)

A Growing Focus on Cybersecurity, Skadden Insights: Biden's First 100 Days (Apr. 20, 2021)

The International Right to Adequate Housing: An Economic Approach, Comment, 20 Chi. J. Int'l L. 486 (2020)

EXPERIENCE

Skadden, Arps, Slate, Meagher & Flom LLP and Affiliates, Chicago, IL

Associate, Litigation, January 2021 – Present

Summer Associate, Summer 2019

- Identified and researched legal issues and drafted memoranda on federal securities laws, the Computer Fraud and Abuse Act, the TCPA, contract law, and common-law questions
- Drafted briefs, motions, answers, and discovery requests in securities litigation matters, a Seventh Circuit criminal appeal, an asylum application, and a contract dispute
- Analyzed documents, prepared interview outlines, conducted interviews, and summarized findings in corporate internal investigation
- Conducted research and drafted guideline for corporate FCPA risk assessment
- Led review of highly relevant produced documents for trial and identified documents for deposition preparation

Supreme Court of Israel, Jerusalem, Israel

Foreign Law Clerk, Justice Alex Stein, Summer 2019

- Performed comparative legal research and writing regarding U.S., Canadian, and U.K. law

The University of Chicago Law School, Chicago, IL

Research Assistant, Professor Omri Ben-Shahar, Fall 2019, Fall 2020

Research Assistant, Professor Geoffrey Stone, Summer 2018 – Spring 2019

Research Assistant, Professor Lior Strahilevitz, Summer 2018

- Conducted research for articles and Ben-Shahar's book *Personalized Law: Different Rules for Different People*
- Conducted legal research for Stone's book, *Democracy and Equality*, and edited and cite-checked drafts
- Analyzed statutes and regulations regarding data privacy and briefed cases for Strahilevitz's work

Jarrett Adams, PLLC, Chicago, IL

Legal Intern, Summer 2018 – Winter 2019

- Drafted motions and demand letters for civil litigation in federal court and conducted the requisite legal research

Epic Systems Corporation, Verona, WI

Project Manager, 2013 – 2014

- Managed implementation of hospital pharmacy software across a ten-hospital healthcare system

BAR ADMISSIONS

Illinois, 2021; Northern District of Illinois, 2021; United States Court of Appeals for the Seventh Circuit, 2022

INTERESTS: Long-distance backpacking, vegetarian cooking, hosting Friday night dinners, studying Talmud, yoga

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Office of the University Registrar
Chicago, Illinois 60637

Name: Sahar Segal
Student ID: 12174976

Scott C. Campbell, University Registrar

University of Chicago Law School

Degrees Awarded

Degree: Doctor of Law
Confer Date: 06/13/2020
Degree GPA: 179.827
Degree Honors: With Honors
J.D. in Law

Academic Program History

Program: Law School
Start Quarter: Autumn 2017
Program Status: Completed Program
J.D. in Law

External Education

Yale University
New Haven, Connecticut
BA 2013

Hebrew University of Jerusalem
Jerusalem, Israel
Master of Arts 2018

EP or EF (Emergency Pass/Emergency Fail) grades are awarded in response to a global health emergency beginning in March of 2020 that resulted in school-wide changes to instruction and/or academic policies.

Beginning of Law School Record

Autumn 2017

Course	Description	Attempted	Earned	Grade
LAWS 30101	Elements of the Law Geoffrey Stone	3	3	177
LAWS 30211	Civil Procedure I Emily Buss	3	3	180
LAWS 30311	Criminal Law Richard Mcadams	3	3	179
LAWS 30611	Torts Daniel Hemel	3	3	183
LAWS 30711	Legal Research and Writing Emma Kaufman	1	1	180

Winter 2018

Course	Description	Attempted	Earned	Grade
LAWS 30311	Criminal Law Genevieve Lakier	3	3	179
LAWS 30411	Property Daniel Abebe	3	3	177
LAWS 30511	Contracts Eric Posner	3	3	180
LAWS 30611	Torts Saul Levmore	3	3	183
LAWS 30711	Legal Research and Writing Emma Kaufman	1	1	180

Spring 2018

Course	Description	Attempted	Earned	Grade
LAWS 30221	Civil Procedure II Anthony Casey	3	3	179
LAWS 30411	Property Lior Strahilevitz	3	3	177
LAWS 30511	Contracts Eric Posner	3	3	180
LAWS 30712	Lawyering: Brief Writing, Oral Advocacy and Transactional Skills Emma Kaufman	2	2	181
LAWS 43268	American Legal History: The Twentieth Century Laura Weinrib	3	3	176

Summer 2018

Honors/Awards
The Chicago Journal of International Law, Staff Member 2018-2019

Autumn 2018

Course	Description	Attempted	Earned	Grade
LAWS 40101	Constitutional Law I: Governmental Structure William Baude	3	3	180
LAWS 42301	Business Organizations Elisabeth de Fontenay	3	3	182
LAWS 43208	Advanced Civil Procedure William Hubbard	3	3	180
LAWS 94130	The Chicago Journal of International Law Richard Mcadams	1	1	P

Date Issued: 07/01/2020

Page 1 of 2

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Office of the University Registrar
Chicago, Illinois 60637

Name: Sahar Segal
Student ID: 12174976

Scott C. Campbell, University Registrar

University of Chicago Law School

Winter 2019

Course	Description	Attempted	Earned	Grade
LAWS 40301	Constitutional Law III: Equal Protection and Substantive Due Process David A Strauss	3	3	179
LAWS 45701	Trademarks and Unfair Competition Omri Ben-Shahar	3	3	182
LAWS 50202	Constitutional Decisionmaking Meets Writing Project Requirement Designation: Geoffrey Stone	3	3	181
LAWS 53264	Advanced Legal Research Sheri Lewis	3	3	179
LAWS 94130	The Chicago Journal of International Law Richard McAdams	1	1	P

Spring 2019

Course	Description	Attempted	Earned	Grade
LAWS 41101	Federal Courts William Baude	3	3	175
LAWS 41601	Evidence Emily Buss	3	3	180
LAWS 53103	Ethical Quandaries in Legal Practice Sharon Fairley	3	3	179
LAWS 53354	Cybercrime William Ridgway Sean Driscoll	3	3	179
LAWS 94130	The Chicago Journal of International Law Meets Substantial Research Paper Requirement Designation: Richard McAdams	1	1	P

Autumn 2019

Course	Description	Attempted	Earned	Grade
LAWS 45801	Copyright Randal Picker	3	3	179
LAWS 53229	Cross-Border Transactions: Law, Strategy & Negotiations Tarek Sultani	1	1	181
LAWS 53263	Art Law William M Landes Anthony Hirschel	3	3	184
LAWS 53310	International Arbitration Javier Rubinstein	3	3	180

Winter 2020

Course	Description	Attempted	Earned	Grade
LAWS 43247	Legal Elements of Accounting John Sylla	1	1	182
LAWS 47201	Criminal Procedure I: The Investigative Process Sharon Fairley	3	3	180
LAWS 53271	Contract Drafting and Review Joan Neal	3	3	183
LAWS 53287	Technology Policy Randal Picker	3	3	181

Spring 2020

Course	Description	Attempted	Earned	Grade
LAWS 40201	Constitutional Law II: Freedom of Speech Geoffrey Stone	3	3	EP
LAWS 42401	Securities Regulation M. Todd Henderson	3	3	EP
LAWS 93499	Independent Research: Litigating Deepfakes: What can be Learned from Trademark Law Omri Ben-Shahar	3	3	EP

End of University of Chicago Law School

Date Issued: 07/01/2020

Page 2 of 2

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OFFICIAL ACADEMIC DOCUMENT



Key to Transcripts of Academic Records

1. Accreditation: The University of Chicago is accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools. For information regarding accreditation, approval or licensure from individual academic programs, visit <http://csl.uchicago.edu/policies/disclosures>.

2. Calendar & Status: The University calendar is on the quarter system. Full-time quarterly registration in the College is for three or four units and in the divisions and schools for three units. For exceptions, see 7 Doctoral Residence Status.

3. Course Information: Generally, courses numbered from 10000 to 29999 are courses designed to meet requirements for baccalaureate degrees. Courses with numbers beginning with 30000 and above meet requirements for higher degrees.

4. Credits: The Unit is the measure of credit at the University of Chicago. One full Unit (100) is equivalent to 3 1/3 semester hours or 5 quarter hours. Courses of greater or lesser value (150, 050) carry proportionately more or fewer semester or quarter hours of credit. See 8 for Law School measure of credit.

5. Grading Systems:

Quality Grades

Grade	College & Graduate	Business	Law
A+	4.0	4.33	
A	4.0	4.0	186-180
A-	3.7	3.67	
B+	3.3	3.33	
B	3.0	3.0	179-174
B-	2.7	2.67	
C+	2.3	2.33	
C	2.0	2.0	173-168
C-	1.7	1.67	
D+	1.3	1.33	
D	1	1	167-160
F	0	0	159-155

Non-Quality Grades

- I **Incomplete:** Not yet submitted all evidence for final grade. Where the mark I is changed to a quality grade, the change is reflected by a quality grade following the mark I, (e.g. IA or IB).
- IP **Pass (non-Law):** Mark of I changed to P (Pass). See 8 for Law IP notation.
- NGR **No Grade Reported:** No final grade submitted
- P **Pass:** Sufficient evidence to receive a passing grade. May be the only grade given in some courses.
- Q **Query:** No final grade submitted (College only)
- R **Registered:** Registered to audit the course
- S **Satisfactory**
- U **Unsatisfactory**
- UW **Unofficial Withdrawal**
- W **Withdrawal:** Does not affect GPA calculation
- WP **Withdrawal Passing:** Does not affect GPA calculation
- WF **Withdrawal Failing:** Does not affect GPA calculation
- Blank:** If no grade is reported after a course, none was available at the time the transcript was prepared.

Examination Grades

- H Honors Quality
- P* High Pass
- P Pass

Grade Point Average: Cumulative G.P.A. is calculated by dividing total quality points earned by quality hours attempted. For details visit the Office of the University Registrar website: <http://registrar.uchicago.edu>.

6. Academic Status and Program of Study: The quarterly entries on students' records include academic statuses and programs of study. The Program of Study in which students are enrolled is listed along with the quarter they commenced enrollment at the beginning of the transcript or chronologically by quarter. The definition of academic statuses follows:

7. Doctoral Residence Status: Effective Summer 2016, the academic records of students in programs leading to the degree of Doctor of Philosophy reflect a single doctoral registration status referred to by the year of study (e.g. D01, D02, D03). Students entering a PhD program Summer 2016 or later will be subject to a

University-wide 9-year limit on registration. Students who entered a PhD program prior to Summer 2016 will continue to be allowed to register for up to 12 years from matriculation.

Scholastic Residence: the first two years of study beyond the baccalaureate degree. (Revised Summer 2000 to include the first four years of doctoral study. Discontinued Summer 2016)

Research Residence: the third and fourth years of doctoral study beyond the baccalaureate degree. (Discontinued Summer 2000.)

Advanced Residence: the period of registration following completion of Scholastic and Research Residence until the Doctor of Philosophy is awarded. (Revised in Summer 2000 to be limited to 10 years following admission for the School of Social Service Administration doctoral program and 12 years following admission to all other doctoral programs. Discontinued Summer 2016.)

Active File Status: a student in Advanced Residence status who makes no use of University facilities other than the Library may be placed in an Active File with the University. (Discontinued Summer 2000.)

Doctoral Leave of Absence: the period during which a student suspends work toward the Ph.D. and expects to resume work following a maximum of one academic year.

Extended Residence: the period following the conclusion of Advanced Residence. (Discontinued Summer 2013.)

Doctoral students are considered full-time students except when enrolled in Active File or Extended Residence status, or when permitted to complete the Doctoral Residence requirement on a half-time basis.

Students whose doctoral research requires residence away from the University register *Pro Forma*. *Pro Forma* registration does not exempt a student from any other residence requirements but suspends the requirement for the period of the absence. Time enrolled *Pro Forma* does not extend the maximum year limit on registration.

8. Law School Transcript Key: The credit hour is the measure of credit at the Law School. University courses of 100 Units not taught through the Law School are comparable to 3 credit hours at the Law School, unless otherwise specified.

The frequency of honors in a typical graduating class:

Highest Honors (182+)
0.5%
High Honors (180.5+)(pre-2002 180+)
7.2%
Honors (179+)(pre-2002 178+)
22.7%

Pass/Fail and letter grades are awarded primarily for non-law courses. Non-law grades are not calculated into the law GPA.

P** indicates that a student has successfully completed the course but technical difficulties, not attributable to the student, interfered with the grading process.

IP (In Progress) indicates that a grade was not available at the time the transcript was printed.

* next to a course title indicates fulfillment of one of two substantial writing requirements. (Discontinued for Spring 2011 graduating class.)

See 5 for Law School grading system.

9. FERPA Re-Disclosure Notice: In accordance with U.S.C. 438(6)(4)(8)(The Family Educational Rights and Privacy Act of 1974) you are hereby notified that this information is provided upon the condition that you, your agents or employees, will not permit any other party access to this record without consent of the student.

Office of the University Registrar
University of Chicago
1427 E. 60th Street
Chicago, IL 60637
773.702.7891

For an online version including updates to this information, visit the Office of the University Registrar website: <http://registrar.uchicago.edu>.

Revised 09/2016

April 22, 2022

The Honorable Timothy Kelly
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W.
Washington, DC 20001

Dear Judge Kelly:

I am writing to recommend Sahar Segal for a clerkship in your chambers. Sahar has been an associate in the Chicago office of Skadden, Arps, Slate, Meagher & Flom LLP since January 2021. I had the pleasure of working closely with her on a fast-paced and highly sensitive internal investigation last summer and fall. Sahar was recommended for the team by my law partner, Patrick J. Fitzgerald, the former U.S. attorney for the Northern District of Illinois. Although Sahar was only in her first year of practice at the time, she quickly became an indispensable member of the team and a subject matter expert on the areas of the case for which she was responsible. She researched and distilled a complex set of health care regulations; reviewed and synthesized highly technical contracts and correspondence; and drafted interview outlines and interview memoranda. Moreover, she was so careful and thoughtful that I asked her to lead portions of several interviews, including that of the key witness in the matter. As I expected, she was knowledgeable, thorough, and polite but persistent in her questioning. She also was a committed team player throughout this challenging investigation, always ready to pitch in, no matter how mundane the assignment, short the deadline, or inconvenient the timing.

During her relatively short time at the firm, Sahar has worked on a number of litigation matters, both billable and nonbillable. She has litigated securities and mass tort cases for major firm clients. In addition, she has devoted a very substantial amount of time to pro bono efforts. For example, she has represented clients on an affirmative asylum application, which was recently granted; on a citizenship application; in a landlord-tenant case; in a criminal appeal; and in voting rights matters. Thus, she has acquired a great deal of litigation experience in a short period of time.

I am confident that Sahar would make an excellent clerk, and I recommend her enthusiastically.

Sincerely,

/s/ Jessie K. Liu

Jessie K. Liu

Liu Jessiue - jessie.liu@skadden.com - 12023717340

Professor Omri Ben-Shahar
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April 19, 2022

The Honorable Timothy Kelly
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W.
Washington, DC 20001

Dear Judge Kelly:

Ms. Sahar Segal, who is now in her second year as a practicing litigation attorney at Skadden (Chicago), is seeking a clerkship position with you. I am entirely convinced that she will be a superb clerk – a star – and I offer my strongest possible recommendation.

I base this strong endorsement on two experiences I had as her professor at the University of Chicago Law School. First, Ms. Segal worked as my research assistant in 2020-21 on two projects. In the first, she was asked to review the legal and social science literature on the concept of manipulation of consumers. I was working an article on this issue, and the memo she produced changed the way I thought about it. The memo was comprehensive and informative, but at the same time had extra qualities. It was organized conceptually in a manner that helped me see both the bigger picture structure of the problem as well as the details springing from each branch. And it was peppered with her own critical evaluations, her own reflections on the materials, challenging me to rethink some of my priors. In the second research project, I asked Ms. Segal to build on her graduate education in theology and examine practices of personalized rules in religious law. This was part of background research I was conducting for a book, published since, on “Personalized Law.” Ms. Segal’s memo was enlightening. She found references that were right on, briefed them concisely and intelligently, and gave me raw materials that featured prominently in the book. Because she understood so precisely my research needs, and because she was able to synthesize challenging sources into an excellent flowing survey, I can say, without hesitation, that she one of the best RAs I had in my many years as a professor.

My second experience with Ms. Segal was in the classroom. She excelled in my Trademarks and Unfair Competition Law class. Her brilliance was on display not only in exam (#3 in the class), but in the analytical thinking she demonstrated in almost every meeting, either by asking those wickedly hard questions, or by her fog-free common-sense observations. Again, I’m ready to go out on a limb and say that she is one of the best Trademarks students I had ever had.

What general skills do I think Ms. Segal have? I like her clear and concise writing style, her cut-to-the-chase analytical approach, and of course her command of legal doctrine. She is meticulous, well-prepared, and organized. She is polite and dedicated. And, at the same time, she is not a yay-nodder. She performs tasks at a level that exceeds expectations, but also offers original thinking and creative solutions.

Now, add to these law-school credentials her litigation practice at the law firm, and you probably have the complete package. Ms. Segal is fully committed to being a litigation attorney and seeks the clerkship as a learning experience to further sharpen her practical skills. No amount of work will be too much for her; no assignment too demanding or difficult; and I predict that every memo she will produce is going to be masterfully done. A combination of an independent thinker and an intense listener, she is brilliant but modest—someone whom it will be a pleasure to mentor.

I would be more than happy to discuss Sahar Segal by phone or follow up email. Please don’t hesitate to call me any time on my cellphone, (734) 276-9143.

Sincerely,

Omri Ben-Shahar

Omri Ben-Shahar - omri@uchicago.edu - 773-702-9494

Professor Lior J. Strahilevitz
Sidley Austin Professor of Law
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April 25, 2022

The Honorable Timothy Kelly
E. Barrett Prettyman United States Courthouse
333 Constitution Avenue, N.W.
Washington, DC 20001

Dear Judge Kelly:

I am very happy to write this letter of recommendation on behalf of Sahar Segal, a class of 2020 honors graduate of the University of Chicago Law School. Sahar is extremely well qualified and would be a terrific law clerk. I recommend her to you enthusiastically.

Sahar worked for me as my research assistant during the summer after her first year of law school at Chicago. She was one of the best research assistants I have ever hired, stacking up well against a group that includes major law firm partners, tenure-track law professors, and leaders in public service. Her work was consistently thorough, prompt, and smart. She displayed a lot of ingenuity and initiative in how she approached her research. I asked her to work on a series of projects related to my primary research interests – property law and privacy law – and her research was invariably helpful, well-presented, and thoughtful. Among the dozens of research assistants I have hired, I cannot recall anyone who did a superior job of working independently and anticipating challenges before they arose.

Sahar was also a strong student in my Property class during her first year. The students are all quite talented at Chicago and engaged very seriously in their work. Among all the elite schools in the United States our students may just have the reputation for being the most diligent and serious. She came to every class well-prepared to discuss the assigned readings, often had perceptive questions for me after class ended, and has been a strong academic performer throughout her time as a J.D. student. Academically, I would certainly place her in the top 10 to 15% of our students, and she easily graduated with honors from an institution that is one of the last holdouts among elite schools resisting grade inflation.

In addition to her J.D., and her undergraduate degree from Yale, Sahar has also earned a Masters degree in Jewish and Talmudic law at Hebrew University. She is fluent in Hebrew and English. I think someone with her background, smarts, and legal training that is both interdisciplinary and international studies would be a great resource for any judge.

Sahar was born in Canada, raised by two Israeli parents, and she emigrated to the United States when she was nine years old, though she spent every summer in Israel. Between college and graduate school she worked at a very well-regarded health care software company called Epic Systems, and she handled significant client-facing responsibilities there. Sahar enjoyed the problem solving and client service aspects of the job so a career in the legal profession has long appealed to her. Sahar gave some thought to applying for clerkships while still in law school. She wound up deciding not to apply because she and her husband wanted to start a family and she did not want to leave a judge scrambling for coverage if she had to go on maternity leave during her clerkship. She has been working as a litigator at Skadden's Chicago office for a few years now. She has gotten a range of exposures to civil and criminal matters, and I know from friends at Skadden that Sahar is regarded as one of their star associates. She is a great, loving parent but also someone who loves being a lawyer and was delighted to get back to the office when her maternity leave at Skadden came to an end. Skadden will work hard to recruit her back when she is done clerking.

If I were asked to describe Sahar's personality, the first words that would spring to mind are earnest, professional, authentic, and kind. Sahar is direct but never abrasive, and she has the rare quality in a millennial student of being extremely respectful of professors' time. I would not describe Sahar as smooth or slick, but I would say that she absolutely exudes competence even if self-promotion does not come naturally to her. She is a grown-up who excels at getting everything done without breaking a sweat, she's low-maintenance, and there's a modesty I find very appealing in someone as accomplished as her.

I was delighted to get the chance to work with Sahar during her time at Chicago. If I had the chance to continue that work I would do so without hesitation. For that reason I will certainly envy the judge who gets to bring her talents and wisdom into chambers for a year.

Sincerely,
Lior J. Strahilevitz
Sidley Austin Professor of Law

Lior Strahilevitz - lior@uchicago.edu - 773-834-8665

SAHAR SEGAL

702 W. Gordon Terrace #3A ♦ Chicago, IL 60613 ♦ (847) 757-0762 ♦ sahar.s.segal@gmail.com

The attached writing sample is excerpted from a brief I wrote in support of my client's affirmative application for asylum as part of my pro bono work at Skadden. Identifying information has been deleted for reasons of confidentiality, but otherwise the brief is as prepared for the USCIS Asylum Office. I have received permission from Skadden to use this as a writing sample.

Dear Asylum Officer:

The undersigned represents Mr. CLIENT in his affirmative application for asylum under the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1158. Mr. CLIENT, a 35 year-old COUNTRY national, fears persecution by the COUNTRY government and its citizens on account of his membership in the particular social group of gay men from COUNTRY. He fears death, physical violence, arbitrary arrest, imprisonment, and extreme social exclusion because he is gay.

I. Background

A. Current conditions for gay men in COUNTRY

[OMITTED]

B. Mr. CLIENT’s experiences as a gay man in COUNTRY

[OMITTED]

II. Mr. CLIENT is eligible for asylum in the United States.

To be eligible for asylum, an applicant must show that he is outside of the country of his nationality and is “unable or unwilling to return to, and is unable or unwilling to avail himself or herself of the protection of, that country because of persecution or a well-founded fear of persecution on account of . . . membership in a particular social group.” *Id.* § 1101(a)(42)(A). For the reasons described below and corroborated by the attached documents, Mr. CLIENT has demonstrated that he has suffered from past persecution and has a well-founded fear of future persecution if he returns to COUNTRY on account of his membership in the particular social group of gay men. The COUNTRY government not only sanctions but

also encourages and participates in the persecution of gay men by both government and non-government actors. As a gay man, Mr. CLIENT experienced persecution at the hands of the police and nonstate actors the government is unwilling to control, and he has a well-founded fear that, if forced to return to COUNTRY, he would face persecution, including death, on account of his sexual orientation. Accordingly, Mr. CLIENT is entitled to asylum.

A. Mr. CLIENT is a member of a particular social group recognized as eligible for asylum under the INA.

Sexual orientation is a protected ground for asylum based on membership in a particular social group. *Moab v. Gonzales*, 500 F.3d 656, 661 n.2 (7th Cir. 2007) (“[H]omosexuality qualifies as a ‘particular social group.’”) (citing *Matter of Toboso-Alfonso*, 20 I&N Dec. 819, 822–23 (B.I.A. 1990)) (noting that the Attorney General designated *Matter of Toboso-Alfonso* to serve as “precedent in all proceedings involving the same issue or issues”).

Mr. CLIENT has credibly established that he is a member of the cognizable social group of COUNTRY gay men. In his affidavit, he describes that he has been attracted to men since he was young, but was forced to hide his feelings from his family and community due to widespread homophobia. The attached letters of support also corroborate that Mr. CLIENT is gay. Despite these pressures, he volunteered for gay rights organizations in CITY until he was forced to flee the country. Mr. CLIENT has had same-sex relationships throughout his life and has lived openly as a gay man since his arrival in Chicago. Thus, Mr. CLIENT has shown that he is a member of a group eligible for asylum under the INA.

B. Mr. CLIENT suffered past persecution by the government and by private actors the government is unwilling to control on account of his membership in the particular social group of gay men.

Although persecution is not defined in the INA, the Seventh Circuit has held that it involves “the use of significant physical force against a person’s body, or the infliction of comparable physical harm without direct application of force . . . or non-physical harm of equal gravity.” *Stanojkova v. Holder*, 645 F.3d 943, 948 (7th Cir. 2011) (emphasis omitted). In order for an applicant to be eligible for asylum, membership in a particular social group must be “at least one central reason” for his or her persecution. 8 U.S.C. § 1158(b)(1)(B)(i). Under the INA, “[p]ersecution can be by the government itself or by a group that the government is ‘unable or unwilling to control.’” *Tapiero de Orejuela v. Gonzales*, 423 F.3d 666, 672 (7th Cir. 2005) (citation omitted). Mr. CLIENT can show that he (1) suffered past persecution (2) on account of his sexual orientation (3) by government actors and private actors the government is unwilling to control.

“[I]t is axiomatic that the evidence of persecution must be considered as a whole, rather than piecemeal.” *Bejko v. Gonzales*, 468 F.3d 482, 486 (7th Cir. 2006) (citation omitted); *see also Kantoni v. Gonzales*, 461 F.3d 894, 898 (7th Cir. 2006) (collecting cases). The cumulative experience of physical harm, credible threats, and non-physical harm suffered by Mr. CLIENT is sufficient to establish past persecution. Specifically, the persecution of Mr. CLIENT on account of his sexual orientation included: (i) inability to live openly as a gay man due to fear of arrest, imprisonment, violence, death, and extreme social exclusion; (ii) childhood sexual abuse; (iii) abuse by students and teachers in a public high school and the

school's failure to protect him from other students; (iv) beating and death threats by mobs in CITY; (v) arrest and abuse by the police; (vi) inability to receive medical treatment at a hospital due to fear of arrest; and (vii) death threats from his coworker and his brothers.

- i. Inability to live openly as a gay man

[OMITTED]

- ii. Childhood sexual abuse

[OMITTED]

- iii. Abuse by teachers and students in high school

[OMITTED]

- iv. The NEIGHBORHOOD, CITY attacks

The threats and beatings Mr. CLIENT suffered at the hands of mobs in MONTH YEAR amount to past persecution. Threats compel a finding of past persecution when they “are of a most immediate or menacing nature or if the perpetrators attempt to follow through on the threat.” *Bejko*, 468 F.3d at 486; *see also Kantoni*, 461 F.3d at 898 (“[a] credible threat that causes a person to abandon” a lawful, protected group is persecution). The mobs that threatened Mr. CLIENT followed through on their threats, attacking not only him but over a dozen suspected gay men in NEIGHBORHOOD. After Mr. CLIENT fled the area, his former neighbor warned him that the threats were still credible and that he would likely be beaten or killed if he returned. These threats therefore rise to the level of persecution.

During the attacks, large crowds used “significant physical force against [Mr. CLIENT’s] body” with bats and other implements, leaving Mr. CLIENT with cuts and severe

bruising throughout his body. *Stanojkova*, 645 F.3d at 948 (emphasis omitted). The Board of Immigration Appeals and the Seventh Circuit have held that similar forms of violence meet the standard of persecution. *See, e.g., Vaduva v. Immigr. and Nat. Serv.*, 131 F.3d 689, 690 (7th Cir. 1997) (“There is no dispute that the Board reasonably concluded [Applicant] . . . suffered at least one instance of . . . persecution . . . [when] he was beaten up (he was punched, his face bruised, and his finger broken) by strangers.”). Thus, the attacks are instances of persecution.

There is no reasonable dispute regarding the motivations of Mr. CLIENT’s attackers. As described in the affidavit and corroborated by witness accounts, the mobs explicitly attacked Mr. CLIENT and the other gay men on account of their sexual orientation. They shouted “Homosexuals, we must kill them,” asserted that they were “cleansing the community” of gays, and left graffiti on the walls of Mr. CLIENT’s house reading “Homosexuals, pack and leave!”

“Persecution is something a government does, either directly or by abetting (and thus becoming responsible for) private discrimination by throwing in its lot with the deeds or by providing protection so ineffectual that it becomes a sensible inference that the government sponsors the misconduct.” *Hor v. Gonzales*, 400 F.3d 482, 485 (7th Cir. 2005). The COUNTRY government has done both. It threw in its lot with the attackers’ deeds by criminalizing any expression of homosexuality, thereby signaling to the public that attacks against gay individuals would go unpunished. It provided ineffectual protection by failing to protect Mr. CLIENT and his fellow victims and arrest their attackers. Moreover, instead of arresting the perpetrators, the police arrested and abused the victims of the crime. Thus, the attacks were

carried out by private actors the government was unwilling to control, and the two mob attacks are past persecution supporting Mr. CLIENT's application for asylum.

v. Arrest and abuse by the police

The arrest and abuse of Mr. CLIENT by the police following the attacks support his showing of past persecution. "Conduct that 'might cross the line from harassment to persecution include[s]: 'detention, arrest, interrogation, prosecution, imprisonment, illegal searches, . . . beatings, or torture.'"" *Tuhin v. Ashcroft*, 60 F. App'x 615, 619 (7th Cir. 2003) (citation omitted). Mr. CLIENT was arrested, stripped, beaten, and humiliated, all because he is gay. The Seventh Circuit has "repeatedly described 'persecution' as 'punishment or the infliction of harm for . . . reasons that this country does not recognize as legitimate.'" *Id.* at 618–19 (citations omitted). This country does not recognize sexual orientation as a legitimate reason for infliction of harm. *See Velasquez-Banegas v. Lynch*, 846 F.3d 258, 262 (7th Cir. 2017); *see also Lawrence v. Texas*, 539 U.S. 558 (2003).

The beatings—which included caning and slapping in the face—and harassment of Mr. CLIENT by the police rise to the level of persecution. The Seventh Circuit has held that a two-day-long arrest that included severe beating and mockery by the police constituted persecution. *Irasoc v. Mukasey*, 522 F.3d 727, 728–30 (7th Cir. 2008) ("While it is true that Irasoc did not suffer permanent injuries . . . Irasoc has established past persecution"). Mr. CLIENT was beaten and harassed by police, forced to remove his clothing, and denied food even though he was arrested in the afternoon and released at one o'clock in the morning.

Mr. CLIENT was arrested by the police—government actors—on account of his sexual orientation. One officer told Mr. CLIENT that he was a “shame” to his tribe and another stated that god does not answer COUNTRY’s prayers because of gay men. Additionally, Mr. CLIENT’s fellow arrestee was forced to reveal his anus and mocked for his homosexuality, making clear the reason for the victims’ arrest.

The Seventh Circuit has clarified that “[t]here is no requirement . . . that a person must endure repeated beatings and physical torment in order to establish past persecution. . . . [T]he number of times that an applicant has been subjected to physical abuse ‘is merely one variable in the analysis of the whole of the petitioner’s claim of past persecution.’” *Gomes v. Gonzales*, 473 F.3d 746, 754 (7th Cir. 2007) (citation omitted). Mr. CLIENT was able to evade further police persecution and abuse by nonstate actors by utilizing a secretive network of LGBT friends, avoiding hospitals when he was injured, and remaining indoors during the daytime. His success in avoiding physical harm does not weigh against a finding of past persecution. Indeed, living in daily fear of arrest and harm is itself a form of persecution. *See Pathmakanthan v. Holder*, 612 F.3d 618, 623–24 (7th Cir. 2010).

vi. Inability to receive medical care in a hospital

As a result of COUNTRY’s laws banning homosexuality, Mr. CLIENT was unable to receive medical treatment for his injuries at a hospital. Reasonable fear of utilizing hospital services for fear of being outed as gay and victimized as a result can form the basis of a showing of persecution. *Velasquez-Banegas*, 846 F.3d at 259–60. In *Velasquez-Banegas*, the Seventh Circuit vacated the deportation to Honduras of an HIV-positive man who reasonably

feared that, if he sought treatment at a hospital in Honduras, he would be outed as a presumed gay man and subjected to violence and abuse by members of the public in Honduras. *Id.* If these hospitals are government-owned, as many are in COUNTRY, “the ‘outing’ . . . by the hospital might well be deemed explicit governmental persecution of presumed homosexuals.” *Id.* at 260.

vii. Threats by coworkers and family members

The death threats that Mr. CLIENT received from his brother H., his brother F., his mother, and his coworker on account of his sexual orientation rise to the level of persecution. An “example of persecution that does not involve actual physical contact is a credible threat to inflict grave physical harm.” *Stanojkova*, 645 F.3d at 948. Mr. CLIENT’s coworker threatened to organize a mob to kill him, and that same day the coworker’s friends texted Mr. CLIENT photographs of his home accompanied by death threats. Since it was highly publicized that Mr. CLIENT had just been attacked by mobs, and since mob violence against gay men is widespread in COUNTRY, his coworker’s threat was credible.

H.’s threats were credible as well. He searched for Mr. CLIENT when he was in hiding after the NEIGHBORHOOD attacks and was able to discover his precise location even though Mr. CLIENT had fled to a different state. Mr. CLIENT was able to evade his brother only by continually changing his location and hiding indoors during the daytime.

Mr. CLIENT’s coworker and brothers explicitly threatened Mr. CLIENT because he was gay. Mr. CLIENT’s coworker stated that he was being punished by god for eating with

a gay man and that he must kill Mr. CLIENT to regain god's trust. H. told Mr. CLIENT that he was a shame to the family because he is gay.

Mr. CLIENT is not required to show that he asked the police for assistance in order to show that the government was unable or unwilling to control his brothers and coworker. *Matter of S-A-*, 22 I&N Dec. 1328, 1335 (B.I.A. 2000) (holding that applicant established asylum eligibility even though she did not request governmental protection from persecution by nongovernment actors because the evidence demonstrated that doing so would have been futile). In addition to Mr. CLIENT's specific experience with the police after the NEIGHBORHOOD attacks, conditions in COUNTRY show that asking the police for assistance would have been futile, since police routinely arrest and extort gay men and fail to protect them from violence by others.

viii. Conclusion

When determining whether an applicant has shown past persecution, "frequency and intensity of the episode(s) are variables in the analysis, [and] even a single incident can reflect past persecution as long as the specifics reveal the severity of the particular situation." *Irasoc*, 522 F.3d at 730 (citations omitted). Abuse and harassment must be considered "[i]n the aggregate." *Matter of O-Z- & I-Z-*, 22 I&N Dec. 23, 25-26 (B.I.A. 1998).

Mr. CLIENT's story reflects a pattern of frequent incidents of abuse with varying degrees of intensity on the basis of his sexual orientation. Mr. CLIENT's story includes both individual events that rise to the level of persecution and events that, taken together, rise to the level of persecution. The incidents reflect a pattern of credible threats, bodily harm

inflicted by state and nonstate actors, absence of state protection from harm by nonstate actors, and non-physical harm that rise to the level of persecution.

C. Mr. CLIENT is entitled to a presumption of having a well-founded fear of future persecution because he has established past persecution.

“An applicant who has been found to have established . . . past persecution shall also be presumed to have a well-founded fear of persecution on the basis of the original claim.” 8 C.F.R. § 208.13(b)(1) (2021). Since Mr. CLIENT has established that he has suffered past persecution, he is presumed to have a well-founded fear of future persecution as well, as required for asylum eligibility under the INA. 8 U.S.C. § 1101(a)(42)(A).

The government can rebut this presumption by demonstrating by a preponderance of the evidence that circumstances have fundamentally changed in COUNTRY or that Mr. CLIENT could reasonably avoid future persecution by relocating within COUNTRY. 8 C.F.R. § 208.13(b)(1)(i)–(ii) (2021). The government cannot meet this burden because gay men continue to be persecuted throughout the entire country. Additionally, Mr. CLIENT’s brother threatened to kill him even after his arrival in the United States and was able to locate him in a different state in COUNTRY. Thus, Mr. CLIENT is eligible for asylum.

As discussed above, [SUMMARY OF COUNTRY CONDITIONS OMITTED].

Furthermore, Mr. CLIENT’s brother is able to locate him in distant parts of the country such that no place in COUNTRY is safe for him. Mr. CLIENT’s Facebook account was hacked years after the NEIGHBORHOOD attack, when he was in the United States, and his private messages were revealed. This could happen if Mr. CLIENT were in COUNTRY, exposing his

location. Additionally, Mr. CLIENT was filmed during the NEIGHBORHOOD attacks, and the Facebook hack reveals that he remains a target. If he returns to COUNTRY, Mr. CLIENT will be at risk from individuals searching for him no matter where he resides. Any return to COUNTRY poses a significant risk to Mr. CLIENT's life and safety.

D. Mr. CLIENT has an independent well-founded fear of future persecution because of his sexual orientation.

Mr. CLIENT can also demonstrate that he has a well-founded fear of future persecution on account of his sexual orientation. 8 C.F.R. § 208.13(b)(2) (2021). An applicant "can affirmatively demonstrate a well-founded fear of persecution if his fear is subjectively genuine and objectively reasonable in light of credible evidence." *Capric v. Ashcroft*, 355 F.3d 1075, 1084–85 (7th Cir. 2004) (citations omitted).

"The subjective fear component turns largely upon the applicant's own testimony and credibility." *Id.* at 1085. "A credibility analysis assesses the applicant's claim only for internal consistency, detail, and plausibility, typically demonstrated by background evidence concerning general country conditions, if available." *Id.*

An applicant can establish an objectively reasonable fear in two ways, each of which is sufficient. First, he can show that there is a "reasonable possibility" that he will suffer persecution if he is returned to his country of origin due to his individual circumstances. 8 C.F.R. § 208.13(b)(2)(i) (2021), *Kllokoqi v. Gonzales*, 439 F.3d 336, 345 (7th Cir. 2005). As the Supreme Court has noted, a "reasonable possibility" can be as low as a one in ten chance of future persecution. *Immigr. and Nat. Serv. v. Cardoza-Fonseca*, 480 U.S. 421, 440 (1987).

Second, an applicant can show that there is a pattern or practice in his country of origin of persecution of the group to which he belongs. 8 C.F.R. § 208.13(b)(2)(iii) (2021). “To constitute a pattern or practice of persecution, the persecution of a protected group must be a ‘systematic, pervasive, or organized effort to kill, imprison, or severely injure members of the protected group, and this effort must be perpetrated or tolerated by state actors.” *Ingmancito v. Mukasey*, 550 F.3d 646, 651 (7th Cir. 2008) (citation omitted); *see also Bromfield v. Mukasey*, 543 F.3d 1071, 1077–78 (9th Cir. 2008) (finding a pattern or practice of persecution of gay men in Jamaica where the government continued to support anti-homosexuality laws and failed to protect gay individuals from persecution by private actors).

Mr. CLIENT has demonstrated a well-founded fear of future persecution on account of his sexual orientation that is both objectively reasonable and subjectively genuine.

It is reasonably possible that Mr. CLIENT would be singled out individually for persecution were he to be returned to COUNTRY. As a result of the publicity surrounding the NEIGHBORHOOD attacks, Mr. CLIENT is known to be gay. Thus, Mr. CLIENT would be unable to hide his sexual orientation and would be at risk of violence and arrest. Moreover, individuals who knew Mr. CLIENT are still searching for him and threatening him. Since he left COUNTRY, Mr. CLIENT’s Facebook account has been hacked and his private messages and photos revealing his sexual orientation were sent to his mother. Mr. CLIENT still faces a significant risk of harm from his brothers and mother. Thus, there is a reasonable possibility that Mr. CLIENT will face physical persecution if he is returned to COUNTRY.

Moreover, even if he were able to hide his sexual orientation, the inability to be open about one's sexual orientation is non-physical harm that rises to the level of persecution. "The law does not require people to hide characteristics like religion or sexual orientation" when determining whether an applicant faces a risk of future persecution. *Velasquez-Banegas*, 846 F.3d at 262.

The Seventh Circuit has rejected social visibility analysis of membership in a particular social group. *Gatimi v. Holder*, 578 F.3d 611, 615 (7th Cir. 2009) (holding that the social visibility criterion "cannot be squared with" prior Seventh Circuit rulings and collecting cases). Specifically, the possibility of concealing one's sexual orientation and thereby avoiding persecution is not a consideration in asylum and withholding analysis. *Velasquez-Banegas*, 846 F.3d at 262. In that case, the court analogized sexual orientation to religion. *Id.* Just as "it is virtually the definition of religious persecution that the votaries of a religion are forbidden to practice it," *Bucur v. Immigr. and Nat. Serv.*, 109 F.3d 399, 405 (7th Cir. 1997), it is persecution to forbid gay individuals to live consistent with their sexual orientation.

There is also a pattern or practice of persecution of gay men in COUNTRY.
[SUMMARY OF COUNTRY CONDITIONS OMITTED].

III. Mr. CLIENT filed his asylum within one year of his entry into the United States.

[OMITTED]

IV. Mr. CLIENT merits a favorable exercise of discretion.

[OMITTED]